

**PATENT**  
**Customer No. 22,852**  
**Attorney Docket No. 05725.1262-00000**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
Xavier BLIN et al. ) Group Art Unit: 1611  
Application No.: 10/784,949 ) Examiner: CHANNAVAJJALA, L. S.  
Filed: February 25, 2004 ) Confirmation No.: 8436  
For: TWO-COAT COSMETIC PRODUCT, )  
ITS USES, AND MAKEUP KIT )  
INCLUDING THE PRODUCT )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

***VIA EFS WEB***

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicants bring to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final action, Quayle action, or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the listed foreign documents are attached. Copies of the U.S. patents, co-pending application, and respective office actions are not enclosed as they are available on the Imaged File Wrapper of PAIR.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), that

an “adverse decision” by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of “substantially similar claim[s]” to the Office. *See also* M.P.E.P. § 2001.06(b). Accordingly, although Applicants are not representing that the Office Actions in the prior application are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed the substantive Office Actions in the prior application on the attached form.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

The following is a statement regarding the non-English language documents:

1.     **EP 0 908 175**: This document is believed to be related to U.S. Patent No. 6,258,345, cited on the attached IDS Form PTO/SB/08.
2.     **EP 0 953 330**: This document is believed to be related to U.S. Patent No. 6,451,294, cited on the attached IDS Form PTO/SB/08.
3.     **EP 1 036 554**: This document is believed to be related to U.S. Patent No. 6,447,761, cited on the attached IDS Form PTO/SB/08.
4.     **FR 2,772,601**: This document is believed to be related to U.S. Patent No. 6,254,877, cited on the IDS Form PTO/SB/08 submitted on November 12, 2004.
5.     **FR 2,777,178**: This document is believed to be related to U.S. Patent No. 6,451,294, cited on the attached IDS Form PTO/SB/08.

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This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies the document as prior art against any claim in the application and Applicants determine that the cited document does not constitute "prior art" under United States law, Applicants reserve the right to present to the U.S. Patent and Trademark Office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed document, should the document be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Date: March 30, 2009

By:

  
Wen Li  
Reg. No. 62,185